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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/815,592	03/12/1997	MASAYUKI MARUTA	1422-0297P	6035

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EXAMINER

YOON, TAE H

ART UNIT	PAPER NUMBER
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1714

32

DATE MAILED: 08/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
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88181559V
APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NO. 97

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07(f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
(b) ☐ they raise the issue of new matter. (see NOTE below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE:

4. ☐ Applicant's reply has overcome the following rejection(s):

5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment

7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 2-7, 22-35 and 37

Claim(s) withdrawn from consideration: 9-21

9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

11. ☐ Other: _____

Tae H. Yoon

TAE H. YOON
PRIMARY EXAMINER

Art Unit: 1714

ATTACHMENT TO ADVISORY ACTION

Applicant's request to withdraw the finality of the Office Action is denied. Applicant asserts that neither of conditions B(1) nor B(2) of MPEP 706.07(b) have been satisfied, but the examiner disagrees as following;

1. The recited provision "wherein said two or more powder coatings form a single layered coating film having a homogeneous hue" in claims 22 and 26 is an intended use which has little probative value. The examiner's position is further supported by the present amendment, which will be entered with filing of a Notice of Appeal, reciting "when said two or more powder coating are applied for coating".
2. The previous claims 22 and 26 before the Final rejection recite "two or more powder coatings for forming a coating film having a visually homogeneous hue" wherein said "for forming a coating film" is an intended use also. Besides, said "visually homogeneous hue" is directed to the property of a single layer since said "visually homogeneous hue" indicates color(s) between very close neighboring (or adjacent) position. Said "visually homogeneous hue" does not apply to colors from the multi-layered film. Thus, the intended use, forming a single layered coating film having a homogeneous hue in claims 22 and 26, was already in place which have met the condition B(1).
3. As evidenced by the rejection under the same art and grounds, condition B(2) have been met.

Art Unit: 1714

Contrary to applicant's assertion, claims are not directed to "single layered powdered coating film", but to powder coating per se as the reason given above and the instant amendment.

With respect to Millar et al, see the Examiner's Answer and Decision on Appeal by the BPAI. Applicant asserts that the same results in the hue would not be obtained even if the powder coatings to be combined had the same particle size by the comparison between Examples A-1 to A-2 with Comparative Examples a-1 to a-3, but it lacks any probative value since the difference in the triboelectric charge is far greater. For example, A-1 uses the powder 1-1 (-14.8 $\mu\text{C/g}$) and the powder 1-2 (-12.5 $\mu\text{C/g}$), and a-1 uses the powder 1-1 (-14.8 $\mu\text{C/g}$) and the powder 1-4 (-8.2 $\mu\text{C/g}$), but Millar et al teach a single powder consisting of two or more powder coatings having similar dielectric constants and specific gravity. Applicant also asserts that the example I of Millar et al show multi-layered film. However, the examiner's position is that a single powder consisting of two or more powder coatings having similar dielectric constants and specific gravity would yield a single layered powdered coating film when applied on a substrate regardless of any additional coating on it or not. Also, one does not prevent other to coat any additional coating even if the instant powder coating forms a single layered powdered coating film even though it is an intended use. Note that an article consisting of a single layered powdered coating film on a substrate is not claimed at all contrary to applicant's assertion.

Art Unit: 1714

The examiner had phoned Mr. Bailey on August 27 (about 3:00 P.M.), 2002 as requested, and left a message with his Secretary, but did not receive any return call as of August 28 (about 7:00 P.M.), 2002. Thus, this Advisory Action is given since it is a dated case (After Final).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

THY/August 28, 2002



TAE H. YOON
PRIMARY EXAMINER